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First Named Inventor: Steve Poll

Application No.: 08/851,299

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### DISCUSSION OF CITED REFERENCES

**Weiss.** Weiss, U.S. Patent No. 4,828,186 ("Weiss"), discloses an invention to support a boat motor mounted on a trailered boat while it is being towed. The device comprises a yoke assembly 26 secured to a cross frame bar 18 of a boat trailer 16. A substantially hollow telescoping shaft is secured to the yoke assembly 26 at one end and is secured to a cradle assembly 22 at its opposite end. The telescoping shaft is made up of a first bracket member 20, a second bracket member 24, and cushion elements 34. Cushion elements 34 are placed between the first and second bracket members 20 and 24, respectively, to absorb impact loads on the telescoping shaft from the boat motor during transportation of the boat 14 on the trailer 16. Eyelets 28 are located at the end of the telescoping shaft to which the cradle assembly 22 is connected. The eyelets 28 are used in conjunction with the tie down strap 30 which passes behind the motor 12 to maintain the motor 12 in the cradle assembly 22. The invention is directed toward providing a non-corrosive, relatively quiet and adjustable means of absorbing impact loads of a boat motor which is attached to a boat while the boat is being transported on a trailer.

**Driscoll.** Driscoll, U.S. Patent No. 3,693,576 ("Driscoll"), also discloses an invention related to supporting a motor mounted on a boat which is being transported upon a trailer. The invention is comprised of an elongated arm 40 which is connected to a mounting bracket 62 by mounting ears 66. The mounting bracket 62 is secured to a mounting plate 58 by way of a pivot fastener 64. This allows the mounting bracket 62 to radially rotate about pivot fastener 64 to rotate the elongated arm 40 to a position in line with a transverse frame member 16 of a trailer 10 for storage purposes. The elongated arm 40 is secured to the mounting bracket 62 by mounting ears 66. The elongated arm 40 is comprised of a pair of generally L-shaped tubular members having long legs 44 and right angularly directed short legs 46. The long legs 44 are disposed in side by side contacting relation as a single shaft extending from the mounting bracket 62 and are secured to each other with appropriate fasteners. The short legs 46 are aligned to project outwardly from opposite

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sides of the elongated arm 40. The invention thus provides a stabilizer of the outboard motor which is readily connected between the trailer and the outboard motor to transfer stresses and torsional forces from the outboard motor onto the trailer while the boat is being towed over rough roads.

### 35 U.S.C. § 102 REJECTIONS

Claims 1, 5 and 8-11 were rejected under 35 U.S.C. § 102(b) as being anticipated by Weiss. In order to constitute a § 102(b) reference, the reference must teach each and every limitation of the claims. As respectfully submitted, Weiss does not teach each and every limitation of the claimed invention. Rather, Weiss claims and teaches a device used when a boat is placed upon a trailer for towing to support the boat's motor. The device is comprised of a support arm which extends from a cross frame bar of the trailer and engages the lower portion of the motor assembly. Weiss further teaches use of a support arm made up of telescoping brackets, with cushion elements placed there-between to absorb impact loads from the over-hanging motor. A tie down strap is connected at the end of the support arm which engages the motor to hold the motor in the cradle assembly at the end of the single support arm.

The invention of amended claim 1 requires use of a tie down bracket which is placed between the trim adjustment rack of the motor and the transom of the boat. The tie down bracket is secured in place by compression from the trim adjustment rack of the motor against the transom of the boat. The compression applied by the trim adjustment rack against the transom can be provided by clamp screws from the transom clamp of the motor or by permanently mounting the motor to the transom with bolts which would pass through the trim adjustment rack, the transom, the transom clamp and possibly the tie down bracket as well before being secured. The amendment clarifies that the tie down bracket is placed in position between the trim adjustment rack of the motor and the transom of the boat.

Weiss, as interpreted by the Examiner, includes a tie down bracket 20, 24 and 28. However, elements 20 and 24 are actually the support arm which extends from the boat trailer 18

and comprise the first and second bracket members, respectively, which are telescoping in relation to each other. Further, element 28 is a pair of eyelets that are located at the end of bracket member 20 and proximate to cradle 22. Weiss is directed at a support arm with telescoping brackets and cushions therebetween to absorb impact loads of a boat motor during transportation of a boat over land on a trailer. Weiss does not teach use of a tie down bracket placed between the trim adjustment rack and the transom. Rather, Weiss teaches multiple telescoping bracket members which combine to form a single support arm which extends from the boat trailer. Thus, Weiss does not teach each and every limitation of the claimed invention of amended claim 1. As such, amended claim 1 is not anticipated by Weiss.

Amended claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Weiss in view of Driscoll. In order to render an invention unpatentable under § 103(a), the references relied upon must show, suggest, or teach their combination and teach all of the limitations of the invention.

Amended claim 2 clarifies that the tie down bracket has a base plate which is secured adjacent to the transom by compression directed from the trim adjustment rack of the motor toward the transom. In considering either Weiss or Driscoll, neither show, suggest, or teach use of a tie down bracket having a base plate which is secured adjacent the transom by compression from the trim adjustment rack of the motor. Rather, in Weiss the support arm is secured to the cross frame bar 18 of the trailer 16 by use of a yoke assembly 26. Similar to Weiss, Driscoll teaches use of a single support arm or stabilizer 28 which extends from a mounting plate 58 which is attached to a transverse frame member 16 of the boat trailer 10. The support arm (or stabilizer) 28 is secured to the mounting plate 58 by mounting ears 66. Thus, neither Weiss nor Driscoll show, suggest, or teach use of a tie down bracket which is secured adjacent to the transom by compression directed from the trim adjustment rack of the motor.

Further, the examiner interpreted Driscoll as teaching a plate 58 with mounting ears 66, and that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the bracket of Weiss with a mounting plate and tabs as taught by

Driscoll. However, that only shows, suggests, or teaches that the reciprocating bracket members 20 and 24 of Weiss (which make up the single support arm) would be connected to the trailer or transom with the mounting plate 58, having mounting ears 66, of Driscoll, rather than the yoke assembly 26 as disclosed in Weiss. The mounting bracket 58 of Driscoll only shows, suggests and teaches a manner to secure the support arm or stabilizer to the boat trailer. In Driscoll, tabs 66 are not shown, suggested or taught to be used to secure a tie down strap which passes behind the motor as required in amended claim 2. Thus, there is no showing, suggestion, or teaching that; (i) the mounting bracket 58 of Driscoll would be positioned between the trim adjustment rack and the transom; (ii) that the mounting bracket 58 would be used to secure the ends of a tie down strap as claimed in the invention; or (iii) that the mounting bracket 58 would be held in position by compression from the trim adjustment rack against the transom. Therefore, amended claim 2 is not shown, suggested, or taught by Weiss in view of Driscoll.

Claim 3 was rejected under 35 U.S.C. § 103 as being unpatentable over Weiss in view of Driscoll. Claim 3 depends from amended claim 1. As previously set forth, amended claim 1 is not anticipated or otherwise taught by Weiss. Neither Weiss nor Driscoll teach use of a tie down bracket placed between a trim adjustment rack of the motor and the transom of the boat to which the adjustable tie down strap of claim 3 is secured after passing behind the motor. As such, Weiss in view of Driscoll does not show, suggest or teach every limitation of the claimed invention. Thus, claim 3 is not shown, suggested or taught by Weiss in view of Driscoll.

Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Weiss in view of Driscoll. Claim 4 depends from claim 3. As previously set forth, claim 3 is not shown, suggested or taught by Weiss in view of Driscoll. Therefore, Weiss in view of Driscoll does not show, suggest or teach every limitation of the claimed invention and claim 4 is patentable over Weiss in view of Driscoll.

Claim 5 was rejected under 35 U.S.C. § 102(a) as being anticipated by Weiss. Claim 5 depends from amended claim 1. As previously set forth, amended claim 1 is not anticipated or otherwise taught by Weiss. Therefore, claim 5 is not anticipated by Weiss.

Claim 6 was objected to as being dependant upon a rejected base claim. Claim 6 depends from claim 5, which in turn depends from amended claim 1. As previously set forth, amended claim 1 is not anticipated or otherwise taught by Weiss. Therefore, claim 6 is no longer dependant upon a rejected base claim.

Claim 7 was objected to as being dependant upon a rejected base claim. Claim 7 depends from claim 6, which in turn depends from claim 5, and which further depends from amended claim 1. As previously set forth, claim 1 is not anticipated or otherwise taught by Weiss. As such, claim 7 is not dependant upon a rejected base claim.

Claim 8 was rejected under 35 U.S.C. § 102(b) as being anticipated by Weiss. Claim 8 depends from amended claim 1. As previously set forth, amended claim 1 is not anticipated or otherwise taught by Weiss. Furthermore, claim 8 requires use of a lanyard which is connected between the motor and the support to raise the support when the motor is rotated or raised to an up position. Further, while Weiss may disclose use of a tie down strap 30 in conjunction with its single support arm 10 once it is placed into position after the motor has been raised, Weiss does not disclose use of a lanyard to raise the support as the motor is raised to an up position. Rather, the support arm of Weiss is used only when the boat is trailered. Further, the support arm 10 is only in place when the boat is out of the water and after the motor has already been raised. There is no disclosure in Weiss that the tie down strap 30 is permanently connected between the motor and the support causing the support to be raised as the motor is rotated or raised to an up position. From the disclosure in Weiss, it appears that the motor 12 could not even be rotated to a down position with the tie down strap 30 secured to the support arm 10 as required by claim 8. Thus, claim 8 is not anticipated by Weiss.

Claim 9 was rejected under 35 U.S.C. § 102(b) as being anticipated by Weiss. Claim 9 depends from amended claim 1. As previously described, amended claim 1 is not anticipated or otherwise taught by Weiss. Therefore, claim 9 is not anticipated or otherwise taught by Weiss.

Claim 10 was rejected under 35 U.S.C. § 102(b) as being anticipated by Weiss. Claim 10 depends from claim 9. As previously set forth, claim 9 is not anticipated or otherwise taught by Weiss. Therefore, claim 10 is not anticipated or otherwise taught by Weiss.

Claim 11 was rejected under 35 U.S.C. § 102(b) as being anticipated by Weiss. Claim 11 depends from claim 10. As previously set forth, claim 10 is not anticipated or otherwise taught by Weiss. Additionally, Weiss does not disclose use of a handle upon the support arm 10. Therefore, claim 11 is not anticipated or otherwise taught by Weiss.

Amended claim 16 was rejected under 35 U.S.C. § 103 as being unpatentable over Weiss. Amended claim 16 further clarifies that the tie down bracket of the outboard motor support device is slid between the transom of the boat and the trim adjustment rack of the motor prior to mounting the motor to the transom which compresses and secures the tie down bracket in place. Weiss does not show, suggest, or teach use of a tie down bracket between the transom of the boat and the trim adjustment rack of the motor. Rather, Weiss discloses use of a yoke assembly 26 to secure the support arm 10 to the cross frame bar 18 of the trailer 16. Therefore, amended claim 16 is not shown, suggested or taught by Weiss and is not unpatentable over Weiss.

Applicant has added new claims 17-28 to the application to more distinctly and completely claim the invention. Support for the newly added claims can be found generally in the detailed description of the specification and more specifically from page 6 line 7 through page 9 line

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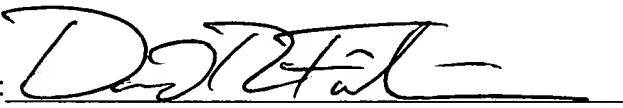
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10 and the accompanying figures. All claims in the application are believed to be in a condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

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